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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/569,781	02/24/2006	Thomas Matschullat	2003P11654WOUS	6080
22116 7590 11/14/2008 SIEMENS CORPORATION INTELLECTUAL PROPERTY DEPARTMENT 170 WOOD AVENUE SOUTH ISELIN, NJ 08830				
EXAMINER LIN, KUANG Y				
ART UNIT 1793		PAPER NUMBER		
MAIL DATE 11/14/2008		DELIVERY MODE PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

## Application No.

10/569,781

## Applicant(s)

MATSCHULLAT ET AL.

## Examiner

Kuang Y. Lin

## Art Unit

1793

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 29 October 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 39 and 43-46 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 39 and 43-46 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

1. Claims 46 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 39, from which claim 46 depends, directs to "a pair" of alloying elements.

However, in claim 46, directs to "each pair of alloying elements selected from the group consisting of Si/O<sub>2</sub>, S/ O<sub>2</sub>, Al/ O<sub>2</sub> , S/C, and N/C. Thus, the claim is deemed to be indefinite.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 39, 43, 45 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,383,310 to Otsuka et al. in view of US 4,946,644 to Schumacher et al.

Otsuka et al. establish the preferred ranges (first range) and the more preferred range (the second range) for carbon to improve the castability and to exhibit acceptable mechanical properties (see col. 6, lines 50-64). Thus, Otsuka et al. substantially shows the invention as claimed except that they do not show to establish the first and second ranges with respect to a specific pair of carbon and other element. However, Schumacher et al. show that in making the austenitic stainless steel the carbon content shall be from 0.05% to 0.12% and preferably 0.07% to 0.12% (the first range). The optimum level of carbon is 0.09 to 0.11% (the second range). The total content of carbon and nitrogen in austenitic stainless steel shall be less than 0.35% (see col. 4, line 54 through col. 5, line 2). In view of the prior art teaching as a whole, it would have been obvious to establish a first range and a second range of C/N pair of Otsuka et al. to improve the castability and to exhibit acceptable mechanical properties in the steel casting process in view of Schumacher et al. With respect to claim 43, it is conventional to use computer and monitor to monitor and control a manufacturing process, such as a casting process.

5. Claim 44 is rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,383,310 to Otsuka et al. in view of US 4,946,644 to Schumacher et al. as applied to

claim 39 above, and further in view of applicant's admitted prior art as set forth in pages 1-2 of the specification.

The admitted prior art teaches that it is conventional to condition the steel melt by addition of alloying elements and additives to the steel melt through the use of mathematical models and the strength formulae to obtain a castable melt for a strip casting process. It would have been obvious to use the continuous strip casting process of the admitted prior for casting the molten metal of Otsuka et al. if a continuous casting strip is designated. It is a common practice to use a twin-roll caster for casting strip.

6. Claim 46 contains allowable subject matter and will be allowed upon the rejection under 35 U.S.C. 112, 2nd para. *supra* is overcome.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kuang Y. Lin whose telephone number is 571-272-1179. The examiner can normally be reached on Monday-Friday, 10:00-6:30,.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jessica L. Ward can be reached on 571-272-1223. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kuang Y. Lin/  
Primary Examiner, Art Unit 1793

11-4-08